

affirmative direction otherwise by the subscribing payphone service provider." Plan at 18. However, NYNEX does not indicate what to what extent it has modified the security procedures described in its plan to ensure that its payphone service personnel, who may have direct access to NYNEX's automated service order system (see discussion of service ordering, above) will not also have access to CPNI of PSPs.

NYNEX's CPNI plan also leaves ambiguous the manner in which it will handle information relating to current customers of NYNEX's tariffed semi-public payphone service. With semi-public service, the payphone location provider subscribes to, and is billed for, a tariffed NYNEX service in which NYNEX provides a payphone and charges the location provider for the line and usage of the payphone. Thus, the location provider is a true customer of NYNEX's tariffed services. The status of semi-public service and its subscribers is scheduled to change on April 15, 1997, because NYNEX may no longer provide the semi-public payphone and the associated payphone-calling services as part of its regulated exchange service operations.

Thus, the CPNI associated with semi-public services is clearly CPNI of the location provider customer and may not be used or disclosed by NYNEX without the customer's affirmative consent except in the provision of the telecommunications service from which the information is derived. 47 U.S.C. § 222(c)(1). Since the existing tariffed semi-public service is necessarily being terminated, subsequent to the termination NYNEX's payphone operation has no more right than any other PSP to access and use the semi-public customer's CPNI.

NYNEX's treatment of semi-public CPNI has major policy implications. The "flash-cut" deregulation of semi-public service will open up a marketplace opportunity for a large group of customers who are willing to pay to have a payphone located on their premises. Customers of tariffed semi-public service are likely to have little or no awareness of the imminent termination of their tariffed service. Since these customers were obtained by NYNEX under anticompetitive, discriminatory conditions in an era of LEC payphone subsidies, there is no legitimate reason why NYNEX's payphone operation should be allowed to exploit its telephone company status to gain preferred access to these customers at the expense of competitors.

Customers of semi-public service should be provided full notice, in a neutral fashion, of the changes that are occurring and be offered a meaningful opportunity to make changes in their payphone services without being subject to service change or installation charges. NYNEX should be required to disclose how it will notify semi-public customers, in a neutral fashion, of the imminent changes and how it will provide those customers an opportunity to authorize disclosure of CPNI on a nondiscriminatory basis to interested payphone providers, including without preference NYNEX's payphone division.

To the extent that NYNEX has, subsequent to enactment of Section 222, allowed its payphone operations to access semi-public customers' CPNI for purposes of marketing nonregulated payphone service to existing semi-public customers, NYNEX has been in violation of the Act. NYNEX should be required to disclose whether such access has occurred. If it has occurred, the Commission must take appropriate remedial measures,

including a "fresh look" for any customer that was signed to a contract in violation of Section 222.

VI. OTHER SEMI-PUBLIC SERVICE ISSUES

There are other questions related to semi-public and semi-public-like service that are not addressed at all in NYNEX's CEI plan. For example, to the extent that NYNEX's payphone operation intends to continue offering a semi-public-like payphone service that involves charging location providers for lines and usage on their payphones, NYNEX must disclose how such a service will be supported by NYNEX's network operations and how charges for the service will be treated on the subscriber's bill. For example, if NYNEX makes network functions available to its payphone operation to track the usage of "semi-public-like" service lines, it must make those same tracking services available in the same manner to independent PSPs. If NYNEX allows its payphone operations to bill for "semi-public-like" service in the local exchange portion of the subscriber's bill, it must make the same billing treatment available for independent PSPs.¹⁵

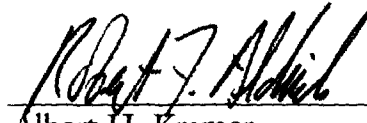
¹⁵ To the extent that such billing treatment is tariffed or subject to regulation at the state level, it is clearly a service that the Bell companies must provide on a nondiscriminatory basis, even if other nonregulated billing services are not.

CONCLUSION

NYNEX's CEI plan fails to provide sufficient specificity and contains outright violations of CEI requirements and the Payphone Order as detailed above. Therefore, NYNEX's CEI plan must be rejected. NYNEX must be required to refile or amend its plan in accordance with the foregoing comments. The Commission should require the refiled plan to be served on commenting parties and to be subject to the same comment period, so that parties have an adequate opportunity to review and comment on the new material submitted.

Dated: February 7, 1997

Respectfully submitted,



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Certificate of Service

I hereby certify that on February 7, 1997, a copy of the foregoing Comments of the American Public Communications Council on NYNEX Telephone Companies' CEI Plan was sent by first class United States mail to:

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